

***AMENDED HLD-005**

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **24-1129**

IN RE: CALEB L. MCGILLVARY, Petitioner

(Related to N.J.D.C No. 1-22-cv-04185)

Present: CHAGARES, Chief Judge, SHWARTZ, and RESTREPO, Circuit Judges

Submitted are

- (1) Petitioner's Petition for a Writ of Mandamus, pursuant to Rule 21, Fed. R. App. P.;
- (2) Petitioner's Motion to Judge Chagares for Summary Action for an Order to Issue Under 28 U.S.C. § 292(b) to Designate a District Judge from Outside the District of New Jersey;
- (3) Petitioner's Motion to Judge McKee for Summary Action;
- (4) Petitioner's Supplemental Motion to Judge McKee for Summary Action;
- (5) Petitioner's Motion to Judge Rendell pursuant to Fed. R. App. P. 27(c);
- (6) Petitioner's Motion to Judge Stapleton pursuant to Fed. R. App. P. 27(c); and
- *(7) Petitioner's Supplemental Petition for a Writ of Mandamus;**

in the above-captioned case.

Respectfully,

Clerk

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ORDER

In June 2022, Petitioner filed a habeas petition pursuant to 28 U.S.C. § 2254 in the United States District Court for the District of New Jersey. That petition has been ripe for disposition since May 2023. In December 2023, Petitioner filed a motion to recuse the District Judge. In response, the District Judge sua sponte administratively terminated the habeas matter pending resolution of a separate lawsuit filed by Petitioner and in which the District Judge is named as a defendant. Petitioner, through his petition and supplemental petition for a writ of mandamus, 3d Cir. ECF Nos. 1-1, 8, challenges the administrative closure of his habeas petition, and seeks an order directing the District Court to rule on his habeas petition, see 3d Cir. ECF Nos. 6, 7. Petitioner also seeks an order pursuant to 28 U.S.C. § 292(b) designating a District Judge from outside the District of New Jersey to oversee the disposition of his habeas petition, see 3d Cir. ECF Nos. 5, 8. Accordingly, the Respondents are directed, and the District Court is invited, to respond to the petition and supplemental petition for a writ of mandamus, and the request for the designation of a District Judge from outside the District of New Jersey, within 21 days of the date of this order. See Fed. R. App. P. 21(b)(4). A ruling on the petition for a writ of mandamus and the request for the designation of an out of district judge shall be held in abeyance pending consideration of the response(s).

By the Court,

s/Michael A. Chagares
Chief Circuit Judge

Dated: August 19, 2024

Sb/cc: Caleb L. McGillvary

Amanda Schwartz, Esq,